

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO: 22-CV-22975

KENT ANTONIO BELIDE WAIDWIGHT
Plaintiff,

vs.

TOPS KITCHEN CABINET AND GRANITE, LLC.
AND CHENG HUANG,

Defendants.

DEFENDANTS' RESPONSE TO PLAINTIFF'S STATEMENT OF CLAIM

Defendants, TOPS KITCHEN CABINET AND GRANITE, LLC., and CHENG HUANG, by and through their undersigned counsel, respectfully submits this response to Plaintiffs' Statement of Claim, and in support thereof states:

1. Defendants object to Plaintiff's Statement of Claim as Defendants have paid all owed wages and overtime wages and such claim is not properly stated.
2. Plaintiff worked more than 10 years with the Company Defendant.
3. Plaintiff worked 8 hours a day, 6 days a week and had a one-hour break.
4. Plaintiff was paid for all the hours he worked including overtime, if any.
5. Plaintiff would take one unpaid break every workday for half an hour to an hour.
6. Plaintiff never complained about the wages paid for 10 years.
7. In his Statement of Claim, Plaintiff states that he was paid \$9.00 per hour, and that overtime paid should be \$13.50. Nevertheless, Plaintiff's calculations for overtime uses a rate of \$16.85, not \$13.50. Therefore, Plaintiff's calculations are incorrect.
8. Also, it is not clear where the Plaintiffs obtained the total number of hours worked per

week from. The Statement of Claim implies that every week Plaintiff worked the same amount of hours.

9. Plaintiff does not submit any supporting documents to indicate the number of hours worked each week and the paid received. It is unreasonable to assume that the Plaintiff never took a sick day or vacation time for 3 years.

10. Therefore, Plaintiff has filed a fraudulent and deceiving Statement of Claim. The Plaintiff has not submitted to the court or to the Defendants any supporting documents to reflect the stated number of hours worked and the paid amounts used in Plaintiffs' calculations.

WHEREFORE, Defendants ask this honorable Court to strike Plaintiffs' Statement of Claim as such claim is submitted in bad faith as it is not clear which weeks are Plaintiffs claiming failure to pay overtime wages. Defendants also seek judgment in their favor with attorney's fees and costs assessed against the Plaintiffs and any other relief that this Court deems proper. If an amendment of the Statement of Claim seems proper, Defendants object to an Amendment of this Statement of Claim without leave of court.

Dated: October 25, 2022

Miami, Florida

Respectfully submitted,

/s/ Tony Pornprinya

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 25, 2022, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

/s/ Tony Pornprinya

Tony Pornprinya, Esq

SERVICE LIST

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